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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,851	03/08/2004	Robert C. Angell	12406/5402	2446

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KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER	
SAGER, MARK ALAN	
ART UNIT	**PAPER NUMBER**
3713	

DATE MAILED: 12/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/796,851	ANGELL ET AL.	
	Examiner	Art Unit	
	M. A. Sager	3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 March 2004 and 06 December 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-35* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-35* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *3/8/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

U.S. Patent 6702672

1. It is noted that the patent 6702672 was printed omitting language 'and a microprocessor configured to receive wager information entered by the player, digitally store the identification code, and encrypt the identification code and the player's wager information for transmission, and' (clm 1), 'and a microprocessor configured to receive wager information entered by the player, digitally store the identification code, and encrypt the identification code and the player's wager information for transmission' (clm 21, 28) and claims 36-37 added in amendment rec'd 6/13/03 that had placed parent application in condition of allowance. A certificate of correction is needed in parent application to correct this clear printing error. Examination is over allowed claims of 09342150.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., In re Berg, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-35 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-37 of U.S. Patent No. 6702672. It is noted for the

record that this holding is over the allowed claims of Alcorn in application 09342150 rather than the incorrect form of invention printed since the printed claims do not reflect the claims the Office allowed. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to an artisan to omit the feature added in amdt rec'd 6/13/03 by claim language 'and a microprocessor configured to receive wager information entered by the player, digitally store the identification code, and encrypt the identification code and the player's wager information for transmission, and', (clm 1) and 'and a microprocessor configured to receive wager information entered by the player, digitally store the identification code, and encrypt the identification code and the player's wager information for transmission' (clm 21, 28) *where patentability is not dependent thereon* so as to secure a broader form of invention which therefore provides broader patent protection. Essentially, the claim language 'a microprocessor configured to receive wager information entered by the player, digitally store the identification code, and encrypt the identification code and the player's wager information for transmission, and', (clm 1) and 'and a microprocessor configured to receive wager information entered by the player, digitally store the identification code, and encrypt the identification code and the player's wager information for transmission' (clm 21, 28) limited the wireless gaming device and method and thus by omitting the cited language a broader form of invention is secured for broader patent protection where patentability is not dependent therefrom. The features of a processor for processing the wagering information received from the wireless gaming device based on the identification code wherein the processor stores and executes software applications containing algorithms to calculate player's account balances, wagers and winnings (claim 36)) and an identifying circuit that drives the transmitter to periodically send an

identification signal to the receiver (claim 37) similarly limited the invention and thus by omitting the cited language a broader form of invention is secured for broader patent protection where patentability is not dependent therefrom.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless -
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-6, 8-9, 13, 16, 21-23, 25, 28-32 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Woodfield et al (EP 0649102A2). This holding is maintained from prior action in parent 09342150 and is reiterated herein. Woodfield discloses system or method for transmitting wagering information while commanding placing of bets (4:4-15:24, figs. 1-4) comprising a wireless gaming device (11, 21-23) having identification code (7:15-16), entry apparatus (6:6-18, refs. 15-16), and transmitter (18, 9), a receiver (4, 7, 8, 27) for receiving id. code and wagering information (15:16-24), the receiver polling the wireless gaming device (7:30-8:5, 15:16-24) to determine whether the player has entered wagering data to be transmitted.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claim 11 is rejected under 35 U.S.C. 102(b) as anticipated by Woodfield or, in the alternative, under 35 U.S.C. 103(a) as obvious over Woodfield. This holding is maintained from prior action in parent 09342150 and is reiterated herein. Woodfield discloses an interactive system inherently including a wager amount register (15:16-24) in order to temporarily store player's wager until wireless device is polled for transmission. Alternatively, it would have been obvious to an artisan to add a wager amount register to Woodfield's system to enable temporarily storing players wager until polled.

9. Claims 15, 24 and 34 are rejected under 35 U.S.C. 102(b) as anticipated by Woodfield or, in the alternative, under 35 U.S.C. 103(a) as obvious over Woodfield in view of Franchi (5770533). This holding is maintained from prior action in parent 09342150 and is reiterated herein. Woodfield discloses a method and system equivalent to claimed invention for a wireless gaming device transmitting wagering data upon being polled by receiver where transmission is by infrared and further includes local receiver transmitting by radio (figs. 1-3) to system receiver in a system for playing a wagering game. Alternatively, Woodfield is equivalent but lacks the hand held wireless device transmitting by radio. Radio transmission is notoriously well known

for not requiring line of sight transmission of medium such as infrared used by Woodfield. Franchi discloses an RSAT using radio as an alternative equivalent form of transmitting wagering data (18:51-55) so as to not require line of sight or so as not to be blocked by intervening obstacles in line of sight. Therefore, it would have been obvious to an artisan at a time prior to invention to add radio frequency signals as notoriously well known or taught by Franchi to Woodfield's method and apparatus to not require line of sight for transmission or so as to not be blocked by intervening obstacles in line of sight.

10. Claim 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woodfield. This holding is maintained from prior action in parent 09342150 and is reiterated herein. Woodfield discloses method and system equivalent to claimed invention including hexadecimal. Regarding claim 7, Woodfield discloses code is interpreted as binary code and hexadecimal coding fails to patentably differentiate from Woodfield's coding. Regarding claim 14, providing indication of game state via color coding is known in gaming, thus it would have been obvious to an artisan at a time prior to the invention to add a bicolor light emitting diode to indicate separately that the wagering information has been entered by the player and that the wagering information has been transmitted by the transmitter to Woodfield's interactive system to direct user's attention to state of game via color coding.

11. Claims 10, 12, 17-20, 26-27 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woodfield in view of Franchi (5770533). This holding is maintained from prior action in parent 09342150 and is reiterated herein. Woodfield discloses an interactive system including a processor in communication with the receiver for processing the wagering information transmitted by the wireless gaming device (15:16-24, figs. 1-3), but lacks disclosing

a smart card reader (clm 10, 33), an account balance register (clm 12), processing being 'based on the identification code' (clm 17), a database for storing an account of the player (clm 18), an eeprom for storing an identifier (clm 19), an encryption key (clm 20) and encrypting the identification code (clm 27). Franchi discloses a system using a wireless gaming device in communication with central computer teaching a smart card reader (5:50-7:15, 18:4-20), account balance register (18:4-20) as balance on smart card, processing 'based on the identification code' (5:50-6:52, 15:26-16:54, 17:51-19:21, 59-62) by verifying account balance, a database for storing an account of the player (5:50-6:52), an encryption key and encrypting the identification code (6:37-52) to verify player has sufficient funds to play, to increase security or to ensure secure transmissions and to increase profitability of casinos because players can play more games and place more bets in a given amount of time (5:50-6:52, 19:59-62). Smart cards include EEPROM or memory devices equivalent to EEPROM for storing user identifiers. Therefore, it would have been obvious to an artisan at a time prior to the invention to add smart card reader, account balance register, an eeprom for storing an identifier, processing 'based on the identification code', a database for storing an account of the player, an encryption key and encrypting the identification code as taught by Franchi to Woodfield's interactive system to verify player has sufficient funds to play, to increase security or to ensure secure transmissions and to increase profitability of casinos because players can play more games and place more bets in a given amount of time (5:50-7:15, 18:4-20, 19:59-62).

12. Claims 10, 12, 15, 19-20, 24, 27 and 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woodfield in view of Koza (5069453). This holding is maintained from prior action in parent 09342150 and is reiterated herein. Woodfield discloses an interactive system

equivalent to claimed method and apparatus (supra), but lacks discussing smart card reader (clms 10, 33), account balance register (clm 12), radio (clms 15, 24, 34), programmable read only memory for storing an identifier (clm 19), encryption key to encrypt the identification code and the wagering information prior to transmission and to decrypt the identification code and wagering information after being received by receiver (clm 20) and encrypting the identification code and wagering information prior to transmission (clm 27). Koza discloses a ticket apparatus with transmitter teaching a smart card reader (13:35-39), wager amount register (13:35-39), account balance register (13:35-39), radio (15:9-24), programmable read only memory for storing an identifier (13:35-39 or 15:62-64), encryption key to encrypt the identification code and the wagering information prior to transmission and to decrypt the identification code and wagering information after being received by receiver (17:12-15) and encrypting the identification code and wagering information prior to transmission (supra). Koza discloses using portable memory devices such as smart cards and thus inherently includes a reader and where such memory devices include registers for storing account balance and memory such as eeprom for storing a player identifier as known in the art. Therefore, it would have been obvious to an artisan at a time prior to the invention to add a smart card reader, wager amount register, account balance register, radio frequency signals, programmable read only memory for storing an identifier, encryption key to encrypt the identification code and the wagering information prior to transmission and to decrypt the identification code and wagering information after being received by receiver and encrypting the identification code and wagering information prior to transmission as taught or suggested by Koza to Woodfield's system to permit remote financial

transactions and to not require line of sight transmissions and to increase security of transmissions.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. A. Sager whose telephone number is 571-272-4454. The examiner can normally be reached on T-F, 0700-1730 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. A. Sager
Primary Examiner
Art Unit 3713

MAS